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September 11, 2020

VIA ECF

Hon. Loretta A. Preska
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: *United States v. Steven Donziger*, No. 19 Cr. 561 (LAP); 11 Civ. 691 (LAK)

Dear Judge Preska:

We write on behalf of the United States to respectfully request that the Court: (1) exclude the period between September 9, 2020 and November 3, 2020 from the computation of time under the Speedy Trial Act, without conceding its applicability to this case, and (2) schedule a conference to confirm Mr. Donziger's trial counsel for the November 3, 2020 trial.

A. Speedy Trial

Given the adjournment of the September 9, 2020 trial to November 3, 2020 as set forth in the Court's September 4, 2020 order (Dkt. 168), we request that the Court exclude the period between today and November 3, 2020 from the computation of time under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A), finding that the ends of justice served by this exclusion of time outweigh the interests of the parties and the public in a speedy trial. By making this application, we do not concede that the Speedy Trial Act applies to this case. We sought the defense position on this issue by email to Ms. Regan and Mr. Garbus on September 8 and September 9. Ms. Regan informed us that she had been evacuated due to wildfires in Oregon and was unable to respond to our request regarding exclusion of time at that time, but hoped to be back in her office by Friday (today) or Monday, September 14. Mr. Garbus did not respond.

B. The Defendant's Trial Counsel for November 3 Trial

In its September 4, 2020 order adjourning trial from September 9 until November 3, 2020, the Court noted that Mr. Donziger had identified Ronald L. Kuby as a lawyer who could act as his trial counsel:

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In a declaration dated August 25, Mr. Kuby informed that he will be in a position to try this case beginning on December 7, 2020. (Dkt. No. 148-1.) For the same reasons set forth in the orders denying Mr. Donziger's motions for a continuance, the Court will not delay trial for the three-month period Mr. Kuby requests. Trial will begin on November 3, which is 70 days from the date of Mr. Kuby's declaration. Cf. 18 U.S.C. § 3161(c) (requiring a criminal defendant's trial to begin within 70 days of his indictment or initial appearance).

Dkt. 168 at 4.

Mr. Kuby has not filed a notice of appearance in this case. Given the Court's orders of August 17 (Dkt. 124), August 26 (Dkt. 145) and September 4 (Dkt. 168), we respectfully request the Court hold a conference to address the issue of who will serve as Mr. Donziger's counsel at the November 3 trial.

Respectfully submitted,

_____/s/_____
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Sareen K. Armani
*Special Prosecutors on behalf
of the United States*